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Application Number: 09/759,935

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## REMARKS

The Applicant thanks the Examiner for examining this application. This is a response to the Office Action mailed on June 28, 2010. By way of this response claims 1-45 are cancelled and new claims 46-53 are added.

### Response to Arguments

The examiner asserts that col. 7, lines 55-65 shows that Logical Node ID may service up to all of the subscribers from a particular hub, i.e. area. Thus it is asserted that multiple subscribers in the same area access the same content and therefore would be using the same Logical Node and the same Logical Node ID is transmitted to the plurality of subscribers in the same area.

The Applicant responds that even under the Examiner's interpretation of the Logical Node ID, Son in view of Dodson fails to teach or make obvious certain features of the claims, such as associating a unique group identifier with each physical transmission path from a headend to each of a plurality of subscriber terminal groups; receiving from a requesting subscriber terminal of a particular group a request for video on demand data including a group identifier for the particular group; extracting and recognizing the group identifier from the request for video on demand; selecting only modulators of the physical transmission path associated with the particular group to pass the video on demand data downstream to the subscriber terminal; and periodically inserting the unique group identifier for each terminal group into communications directed only to subscriber terminals of the terminal group. Please consider the following remarks in support of the Applicant's position.

### 35 U.S.C. §112

Claim 42 is rejected under 35 U.S.C. §112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner essentially asserts the claim is

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subject to interpretation as a means-function claim, but lacks corresponding structure in the specification.

The Applicant respectfully disagrees, but believes this rejection to be moot in light of the claim amendments made herein.

**35 U.S.C. §103(a)**

Claims 42-45 are rejected under 35 U.S.C. §103(a) as being unpatentable over Son, (U.S. Pat # 6,697,376) in view of Dodson, (U.S. Pat # 6,873,622).

Claim 46 describes an application server to associate a unique group identifier with each physical transmission path from a headend to each of a plurality of subscriber terminal groups. The application server receives from a requesting subscriber terminal of a particular group a request for video on demand data including a group identifier for the particular group. It extracts and recognizes the group identifier from the request for video on demand, and selects only modulators of the physical transmission path associated with the particular group to pass the video on demand data downstream to the subscriber terminal. A data formatter periodically inserts the unique group identifier for each terminal group into communications directed only to subscriber terminals of the terminal group.

The Supreme Court case of KSR (127 S. Ct 1742) set forth some guidelines for when obviousness may be found from combined references. If the references don't disclose all significant aspects of the claims, there must be some teaching and motivation to cause the claimed features to obviously arise from the combination of references, over other possible alternatives.

Son teaches that an identifier (a Logical Node id) is transmitted downstream from the headend and later sent back from the terminal, not in a VOD request, but at some other time unrelated to a VOD request. The Logical Node id does not appear to identify a physical path from the headend to a group of subscriber terminals. Furthermore the headend uses the Logical Node ID to build a configuration database; it doesn't receive from a requesting subscriber terminal of a particular group a request for video on demand data including a group identifier for the particular group. It does not extract and recognize

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the group identifier from the request for video on demand. It does not select only modulators of the physical transmission path associated with the particular group to pass the video on demand data downstream to the subscriber terminal. There is no teaching or motivation provided by Dobson to obviously incorporate such features in Son because Son uses the Logical Node ID to build a database on the server, not to transmit video on demand data. The headend described in Son not only obtains the group ID from the terminal in a different way, it also uses it for a different purpose.

Dodson does not teach nor make obvious the features lacking in Son. Dodson also doesn't teach receiving from a requesting subscriber terminal of a particular group a request for video on demand data including a group identifier for the particular group. Dodson doesn't teach extracting and recognizing the group identifier from the request for video on demand, and selecting only modulators of the physical transmission path associated with the particular group to pass the video on demand data downstream to the subscriber terminal. Dodson teaches an entirely different application, in which a port and node id are inserted into an (upstream) service request by equipment upstream of the terminal, and this information is used to verify access rights to the requested content. The information added to the streams by upstream equipment is not used to select only modulators of the physical transmission path associated with the particular group to pass the video on demand data downstream to the subscriber terminal.

KSR teaches that one skilled in the art must be motivated to combine the references, and in the case of Son and Dodson, there simply is no such motivation. Son teaches that the Logical Node id is already stored by the terminal and later incorporated in upstream messages. Dodson teaches that equipment ids are inserted into upstream service requests by upstream equipment, not the terminals. These are two primarily exclusive approaches. There would be little if any benefit to combining these two approaches into a single system, and especially the benefits achieved by the system of claim 46 would not be achieved or apparent from such a combination. If the network equipment were to insert group ids into upstream service requests, there would be no motivation to incur the complexity and overhead of broadcasting node ids downstream and store them in the terminals, and vice versa. In fact, such a combination may lead to

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inconsistencies and inefficiencies between what is provided downstream and what is provided upstream, as the sources of the information would be entirely different.

As a threshold matter, the two references do not combine to teach all the features of claim 46. Furthermore, there is no teaching or suggestion from either reference that would obviously lead one skilled in the art to adapt a system in the claimed manner.

Claim 46 does not simply describe a rearrangement of elements in the cited references with each performing the same function it has been known to perform. Claim 46 recites features not disclosed nor obvious from either reference, the new features used in ways that not disclosed nor obvious from the combined references.

Claims 47-49 are dependent on claim 46 and likewise patentable over the cited references. Claim 50 comprises similar features and it likewise patentable, as are the dependent claims 51-53.

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**Reservation Of Rights**

The Applicant believes every assertion by the Office Action has been addressed, however in the interest of clarity and brevity, applicant may not have asserted every available argument for each assertion made in the Office Action. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. §1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record is relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP §2144.03. Applicant reserves all rights to pursue any canceled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP §821.04.

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**Conclusion**

For at least the reasons provided, all of the claims should be allowed. If an interview would help further the prosecution, the Examiner is urged to contact the Applicant at the numbers provided below.

Respectfully Submitted by:

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